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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/085,343	02/28/2002	Jeffrey J. Gratz	273.018	1365

23598 7590 01/29/2004

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EXAMINER

MAI, TRI M

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 01/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application N .

10/085,343

Applicant(s)

GRATZ, JEFFREY J.

Examiner

Tri M. Mai

Art Unit

3727

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Pri rity under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Drawings*

1. The longitudinal axis, the axis in claim 1, line 7, and the second axis traverse to the longitudinal axis must be shown.

### *Claim Rejections - 35 USC § 112*

2. Claims 1 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear what "corresponding edges" is referred to.

It is unclear what are the axes recited in the claims. See drawings objection.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-2, 6, and 9-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Williams (2808189). Williams teaches a support structure having an elongated member having first and second sides. A first set of ribs projecting from the first side of the elongated member 107 and corresponding to a first set of depressions in the second side of the elongated member. The first set of ribs including a plurality of ribs axially spaced from each other and from corresponding edges. Williams teaches a second set of ribs (the adjacent column of projection 107).

Art Unit: 3727

Note the first plurality of ribs along line 4, and adjacent second plurality of ribs, and a plurality of depressions 113 between.

5. Claims 1-5, and 7-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Reifers (3135445). Reifers teaches a support structure having a first and second sets of ribs 12, each set axially spaced from each other along an axis transverse to the longitudinal axis.

Regarding claim 3, Reifers teaches a first and second ribs 13 projecting from the second side of the elongated member.

Regarding claim 3, note the land portion at 107.

Regarding claim 5, note the pulp material in col.2, line 53.

6. Claims 1-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Emery (2783879). Emery teaches a support structure with first and second set of ribs (formed by portion 93, 100, 104, 108) and second set of ribs (formed by the adjacent protrusion), and a third set of depressions (formed by 98, 102, 106) there between the protrusions from each of the first set.

Regarding claims 4-5, note the profile shown in Fig. 3 where

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reifers (3135445). Reifers meets all claimed limitations except for the third set of ribs. It would have been obvious

Art Unit: 3727

to one of ordinary skill in the art to provide a third set of rib since it would have been obvious to a person having ordinary skill in the art to duplicate parts for a multiplied effect (St. Regis Paper Co. v. Bemis Co., Inc.)193 USPQ 8, 11 (7th Cir. 1977). In this case to duplicate the ribs of Reifers would enable one to accommodate more articles.

9. Claims 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Williams (2808189) in view of Comer (4942965). Williams meets all claimed limitations except for the cavities on the land portions. Comer teaches that it is known in the art to provide cavities 77 on the land portions 76 as shown in Fig. 9-10. It would have been obvious to one of ordinary skill in the art to provide cavities in Williams as taught by Comer to provide cushioning effects.

#### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (703)308-1038. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W Young can be reached on (703)308-2572. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1148.

Tri M. Mai  
Primary Examiner  
Art Unit 3727

T M Mai